

*Minutes of the*  
**MAINE LAND USE REGULATION COMMISSION**  
**Regular Monthly Meeting**  
**Department of Conservation BMHI Conference Room,**  
**Hogan Road**  
**Bangor, Maine**  
**February 11, 2004**

**Commissioners Present:**

Theresa Hoffman

Ed Laverty

Steve Wight

Bart Harvey

**LURC Staff Present:**

Catherine Carroll, Director  
Aga Pinette, Senior Planner  
Peggy Dwyer, Resource Administrator  
Jared Stanley, Regional Representative

Fred Todd, Planning Division Manager  
Scott Rollins P&C Division Manager  
Jeff Pidot, Office of the AG

Bill Galbraith, Regional Services Supervisor  
Ted Wolfertz, Regional Representative  
Deena Bean, Regional Representative

**Others:**

John Wilson  
Joseph and Elizabeth Walsh  
Ted Kurtz  
Alan and Timothy Arbo  
Gordon Mott

Steve Kahl  
Diano Circo  
Roger Huber  
John Hanlon  
Cathy Kecki

Mr. And Mrs. Myers  
Jeffrey Selser  
Ed Gould  
Donald Moore  
Gary Johnson

*Note: If a unanimous vote is indicated, all commissioners in attendance voted the same way. Split commission votes are recorded in the following order: number voting in favor of a motion - number opposed - number abstaining - number absent.*

**MINUTES OF JANUARY 14, 2004 COMMISSION MEETING**

Theresa Hoffman made a motion to adopt the minutes as presented. Ed Laverty seconded the motion, and the vote carried 4-0-0-0.

**DP 4618 Joseph P. Walsh, request for public hearing on appeal of staff approval, Junior Lake and Horseshoe Lake, Town of Lakeville, Penobscot County**

Jared Stanley reported that Commission staff has received requests for a public hearing from residents in the Town of Lakeville, Penobscot County regarding the issuance of a permit for the development of a commercial sporting camp and campground. Jared told the Commission that staff issued a Development Permit to Joseph P. Walsh in September of 2003, authorizing a commercial sporting camp complex and a campground on his 154- acre parcel on Junior Lake and Horseshoe Lake in the Town of Lakeville. The abutting landowners and other landowners in the Town of Lakeville have appealed the decision of the staff. These numerous appeals state that the permit should not have been issued because they believe commercial use of the lot is prohibited, the character of the lake will be changed, there is a lack of legal access to the property, and that the project does not meet the Commission's criteria for approval.

Jared explained that the Commission, in determining whether a public hearing is advisable, should consider the degree of public interest and the likelihood that information presented at the hearing will be of assistance to the Commission in reaching its decision. He reminded the audience that hearings on a permit application are held at the discretion of the Commission.

**DP 4618, Con't.**

Jared stated that while there is a significant degree of public interest on the authorized development in that numerous appeals were submitted after the permit was issued, staff believes that the information presented at a hearing will not be of further assistance to the Commission in reaching its decision. Specifically, he said that the existing information in the file for an Appeal of Development Permit DP 4618, both supplied by the applicant and the interested parties, is

extensive and encompasses the concerns expressed by all parties during the review of the application and after the permit was issued.

Additionally, he said that the Commission has been requested to review an appeal of a staff decision, in which the Commission will be providing the opportunity for oral comments from the public while it considers the appeal. Therefore, he recommended that the Commission not hold a public hearing on the Appeal of Development Permit DP 4618, but rather welcome public input at the time the appeal request is being considered.

Ted Kurtz, Allan Arbo and Mr. Moore spoke in favor of holding a public hearing, and Roger Huber and Joe Walsh expressed skepticism that a public hearing was necessary.

Steve Wight said that he thought that little would be learned in through the Public Hearing process that was not already contained in the record, and made a motion to deny the requests for public hearing. Ed Lavery seconded the motion, and the vote carried unanimously.

### **DP 4618 Joseph P. Walsh, appeal of staff approval, Junior Lake and Horseshoe Lake, Town of Lakeville, Penobscot County.**

Jared repeated the basis for this appeal, then provided specific detail and staff's response to each of the concerns raised by the interested parties. He stated that that staff found that the permitted development was consistent with the Commission's standards, and that the concerns raised by the appellants had been reasonably addressed by the applicant. Jared explained that the applicant has modified several parts of his proposal to satisfy the concerns addressed in the appeal process, such as providing a seasonal dock on Horseshoe Lake to reduce the impact of boat traffic on the shallow stream between Junior Lake and Horseshoe Lake, reducing the size of campers that are allowed to utilize the campground to reduce the impact on the existing roads, using shielded lighting at the sporting camp complex, and placing the insulated generator container into a secondary building to further reduce the noise associated with the diesel generators. In summary, Jared stated that the proposed development is consistent with the policies and goals set forth in the Commission's Comprehensive Land Use Plan for sporting camps in that the new development design will provide for a concentration of buildings, buffering from other uses, and a common water access to minimize impacts to the shoreline, and he recommended that the Commission uphold approval of Development Permit DP 4618. A lively discussion ensued. Opponents of the project repeated many of the concerns that were addressed in the permit review and appeal. Some alleged that significant gaps in the application review process, including information omitted on the application form and the absence of a wetlands delineation report obligated the Commission to reconsider the application. Of particular focus was the question of legal access to the development, but the Commission eventually found that a determination of the validity of the applicant's apparent right, title and interest to the property was beyond their jurisdiction, and indicated that a court of law would have to resolve those questions. Ed Lavery made a motion to uphold the staff issuance of the development permit. Steve Wight seconded the motion, and the vote carried unanimously.

## **PLANNING MATTERS**

### **Adoption of Subdivision and Development Review Standards**

Aga Pinette began her presentation by describing the collaborative work with LURC staff, state agencies, interested parties, members of the public and the Commissioners involved in the proposed revisions to LURC's subdivision and development. She referred to a written statement summarizing the basis for the proposed amendments and including detailed responses to public comments received, as well as a list of exhibits and a copy of all public testimony, then recommended adoption of the proposed changes to LURC's subdivision and development rules (Chapter 10) and policies (Need Guidance Document). Steve Wight thanked Aga for keeping the Commission well informed of her

progress throughout the project, and said that he was very pleased with her work. Theresa Hoffman made a motion to adopt these rule changes as proposed. Steve Wight seconded the motion, and the vote carried unanimously. Jeff Selser, speaking personally, and as a real estate professional, said that he had watched but not been involved with the rule review process. He commended Aga on a very thoughtful and well-organized set of revisions.

### **ULP 409 Plum Creek Land Company, appeal of staff approval, First Roach Pond, Frenchtown Twp, Piscataquis County.**

Aga explained that Commission staff had issued an amendment that modified the restrictive covenants of the First Roach Concept Plan that would allow Plum Creek to bury a utility line serving the North Shore Central subdivision. The Natural Resources Council of Maine (NRCM) brought a timely appeal. The work was done immediately, before the Commission could review the appeal.

Jeffrey Selser, attorney for Plum Creek explained that the need for an amendment was a unique situation based on topography and wetlands, and said that the change was in keeping with the spirit and intent of the covenants because 700 feet of buried utility line would cause less environmental impact than 4,800 feet of overhead wires.

Diano Circo, speaking on behalf of the Natural Resources Council of Maine, said that the questions before the Commission were larger than whether the already- completed development met the spirit and intent of the Concept Plan. He questioned the value of any restrictive covenants in Concept Plan development if the Commission simply changes them later, modifying the express purpose for which they are created at, the request of the developer.

The Commission worried that large conservation easements in the future could be affected by Plum Creek's lack of planning in this instance, and that other developers might be misdirected by Plum Creek's actions. Theresa Hoffman spoke about Plum Creek's leadership role in large-scale conservation in Maine, and said she was particularly dismayed by the fact that Plum Creek had buried the line before they could hear the appeal. Commenting that the Commission should make very sure this didn't happen again, she said that the Commission should have early involvement in all amendments to the Concept Plan as a matter of policy.

Steve Wight made a motion to accept staff recommendation to uphold the permit amendment. Theresa Hoffman seconded the motion, and the vote carried unanimously.

### **DIRECTOR'S REPORT**

Catherine Carroll reported that LURC was fully staffed. She announced that Lisa Philbrick, formerly an employee of the Bureau of Parks and Lands, had filled the vacant CT III position, and introduced Regional Representatives Deena Bean and Ted Wolfertz. Deena will be working with Larry Casey in Rangeley, and Ted will be working with Jen and Bob in Greenville. Catherine said a third regional representative for the Greenville office, Christina Stacey, would begin working at LURC later this month. Catherine also said that the governor's office was working hard to fill the vacancies on the Commission as soon as possible.

### **Upcoming Projects**

*Saddleback-* Catherine told the Commission that the ski resort had sold recently, and the new owner was ready to propose an expansion that would require changes to the development permit.

*Centerville-* Sue Burns and Sarah Canon are beginning work on developing a zoning map for the town.

Catherine noted that she attended the Maine Sporting Campowners Association Board of Directors meeting in January. Members of the board offered several compliments especially to the permitting and compliance staff in Greenville, Rangeley and Augusta.

### *Legislative Update*

Issues under consideration by the legislature of interest to LURC include a revised jetski bill, the Atkinson Deorganization, NRPA changes to the Clearing for Development Standards, and statewide rules for water withdrawal, to be developed by the DEP by January of next year.

### **Next Meeting.**

It was tentatively decided to hold a meeting late in March, in hopes that there would be a quorum of the Commission.

### **COMMISSIONER COMMENTS**

Bart Harvey, noting that that this would be Theresa Hoffman's last meeting as Commissioner, thanked her for her many contributions to the Commission over the years. Steve Wight presented her with a small framed photograph as a small token of the Commission and staff's appreciation.

The meeting was adjourned at 2:30 PM  
Respectfully Submitted,  
Peggy Dwyer, Resource Administrator